REMARKS

Claims 1-9, 48-112, 149, 158-211, 215-217, 220, and 222-236 are pending in the application. The amendments to claim 1 was made to further clarify the presently claimed invention. Newly added claims 225-236 find basis in the claims as originally filed, and in paragraph [00081] in the published patent application US2003/0036199. No new matter has been inserted into the application.

Rejection Under 35 U.S.C. § 102(b) Over U.S. Patent No. 5,108,933 ('933 patent)

Claims 1 and 2 have been rejected under 35 U.S.C. § 102(b) as being anticipated by '933 patent. Applicant traverses this rejection. Reconsideration and withdrawal thereof are respectfully requested.

At the outset, Applicant notes that the presently claimed invention is directed to a kit comprising: a first article having a surface; and a peptide sequence immobilized relative to or adapted to be immobilized relative to the surface, the peptide sequence comprising a portion of a cell surface receptor, in which an interchain binding region has been removed to the extent necessary to prevent self-aggregation of the peptide, which interacts with an activating ligand to promote cell proliferation.

Liberti '933 discloses colloid particles that are converted into magnetic microagglomerates. Further, the Liberti '933 reference is cited for the disclosure of a receptor immobilized to a colloidal agglomerate and the binding of substances such as an antibody to the receptor. However, Liberti '933 fails to disclose or suggest a receptor that is missing an interchain binding region. In fact, Liberti '933 makes no mention of an interchain binding region.

Contrary to the Examiner's contention that the receptor described in the Liberti '933 reference inherently discloses a receptor that is devoid of an interchain binding region, Applicant notes that this is not necessarily so. It cannot be necessarily presumed that the receptor described in the Liberti '933 reference inherently lacks an interchain binding region. Receptors in general are not required to have interchain binding regions. Therefore, in the absence of a disclosure in Liberti '933 of a receptor with or without an interchain binding region, the Liberti '933 reference cannot be said to inherently disclose a receptor in which the interchain binding region has been removed. Furthermore, there is no disclosure or suggestion found in the Liberti '933 reference indicating that an antibody was made against a portion of the receptor in which the interchain

binding region was absent. Accordingly, the presently claimed invention is patentable over Liberti '933.

Moreover, the Examiner indicated in the Office action mailed April 8, 2009 that the basis for this rejection stems from the recitation in claim 1 that the peptide sequence includes the interchain binding region (IBR). Applicant notes that the claimed invention is directed to a peptide sequence that is free of interchain binding region. Accordingly, the '933 patent fails to anticipate the claimed invention.

Rejection Under 35 U.S.C. §103(a) Over Liberti '933 patent in view of Spicer (JBC Vol. 266, pages 15099-15109)

Claim 3 has been rejected as being "obvious" over the Liberti '933 patent in view of Spicer. Applicant traverses this rejection. Reconsideration and withdrawal thereof are respectfully requested.

Liberti '933 is discussed above.

Spicer discloses molecular cloning of the gene encoding MUC1. Applicant submits that the presently claimed invention is not obvious over the combination of Liberti '933 and Spicer. The deficiencies of Liberti '933 have been discussed above. In particular, Liberti '933 fails to disclose or suggest a kit which includes a receptor in which the interchain binding region is removed. The Spicer reference discloses cloning of the gene encoding MUC1. However, since there fails to be any mention of the removal of an interchain binding region, Spicer fails to remedy the deficiencies in the Liberti '933 reference. Therefore, Liberti '933 and Spicer fail to be combinable with each other to arrive at the presently claimed invention.

The Examiner indicated in the Office action mailed April 8, 2009 that the basis for this rejection stems from the recitation in claim 1 that the peptide sequence includes the interchain binding region (IBR). Applicant notes that the claimed invention is directed to a peptide sequence that is free of interchain binding region. Accordingly, the presently claimed invention is not obvious over the cited references.

Conclusion

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to JHK Law's Deposit Account No. **502486** during the

pendency of prosecution of this application. Should such additional fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition thereof.

Respectfully submitted,

JHK Law

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